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Consent to Medical Treatment of Incapacitated Adults

An adult cannot consent to medical treatment if he/she lacks the understanding or capacity to make or communicate responsible decisions. One of the duties of a guardian is to make reasonable efforts to secure medical services for a client of the Division who is his/her ward. If a permanent guardian is unavailable (due to death, resignation, etc.), Arizona law allows other identified individuals to sign the consent for medical treatment of an incapacitated adult.

a. in the following order of priority, these individuals may act as a surrogate to sign the consent for medical treatment of an incapacitated adult when no guardian is available:

1. the spouse of the incapacitated adult;
2. an adult child;
3. a parent;
4. a domestic partner (assuming the individual is not married and no other person has a financial responsibility for the individual);
5. a brother or sister; or
6. a close friend ("a close friend" means an adult who has shown special care and concern for the individual, who is familiar with the individual's health care views and desires and who is willing and able to become involved and act in the individual's best interest).

A health care provider is required to make reasonable efforts to locate these designated individuals. In order to assist the reasonable efforts of health care providers, the Division Support Coordinators should have available, at all times, a complete list of the names, addresses and phone numbers of these designated individuals who may be contacted for purposes of signing a consent for medical treatment. A copy of the list may be provided to treating medical personnel, as necessary, to assist them in locating a person authorized, by law, to sign a consent for medical treatment if a guardian is unavailable. If none of these individuals is available, the appointment of a public fiduciary by the court may be requested. Department of Economic Security Policy and Procedures Manual Division of Developmental Disabilities **Chapter 1500 Individual Rights and Responsibilities**
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b. any competent adult, who has a properly executed power of attorney from a guardian which delegates to that adult the guardian's power to sign a consent for medical treatment of his ward, may legally sign the consent. The power of attorney is valid for no more than six (6) months.

c. in an emergency, if time allows, a temporary guardian may be appointed by the court to sign a consent for medical treatment or the court may immediately exercise the power to consent to medical treatment prior to notice and hearing. If no one is available to serve as a temporary guardian, the court may appoint the public fiduciary.

d. when an immediate, life threatening emergency exists and there is neither time to get to court nor time to contact the individuals who may lawfully sign a consent, an attending physician, after consultation with a second physician, may make the health care treatment decision without a signed consent.

e. the Division Support Coordinators cannot sign a medical consent for treatment of incapacitated adults.

Arizona Revised Statutes § 14-5101

Arizona Revised Statutes § 14-5104

Arizona Revised Statutes § 14-5310

Arizona Revised Statutes § 14-5312

Arizona Revised Statutes § 14-5602

Arizona Revised Statutes § 36-3231